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EXAMINER

NGUYEN, VAN H

ART UNIT

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2194

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/673,897	Applicant(s) GUILLAUME ET AL.	
	Examiner VAN H. NGUYEN	Art Unit 2194	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to the amendment filed 09/08/2008.

Claims 1-10 are pending in the application.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 1: *“a single local registry”* renders the claim indefinite because it is unclear if it is referring to *“a local registry”* recited at line 4.

Dependent claims 2-8 are rejected for fully incorporating the deficiencies of their base claim.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-8 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

“The applicable test to determine whether a claim is drawn to a patent-eligible process under § 101 is the machine-or-transformation test set forth by the Supreme Court and clarified herein” In re Bilski, 545 F.3d at 966.

Claims 1-8 do not transform physical subject matter. The claims may transform data. However, transformation of data, without a machine, is insufficient to establish patent-eligibility under § 101. See In re Bilski, at 961 (*“[E]ven a claim that recites 'physical steps' but neither recites a particular machine or apparatus, nor transforms any article into a different state or thing, is not drawn to patent-eligible subject matter.”*).

The claimed “method for distributed management of a catalogue of objects in communication network comprising devices” (see preamble, Claim 1) does not require a particular machine or apparatus, nor do these claims transform any article into a different

state or thing. According, independent Claim 1, and associated dependent Claims 2-8 are not directed to statutory subject matter under 35 U.S.C. § 101.

Claims 9 and 10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Descriptive material can be characterized as either “functional descriptive material” or “nonfunctional descriptive material.” In this context, “functional descriptive material” consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of “data structure” is “a physical or logical relationship among data elements, designed to support specific data manipulation functions.” The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) “Nonfunctional descriptive material” includes but is not limited to music, literary works and a compilation or mere arrangement of data. Both types of “descriptive material” are nonstatutory when claimed as descriptive material *per se*. *In re Warmerdam*, 33 F.3d 1354, 1361, 31 USPQ2d 1754, 1760 (claim to a data structure *per se* held nonstatutory).

Data structures not claimed as embodied in computer-readable media are descriptive material *per se* and are not statutory because they are not capable of causing functional change in the computer. *See, e.g., In re Warmerdam*, 33 F.3d 1354, 1361, 31 USPQ2d 1754, 1760 (claim to a data structure *per se* held nonstatutory). Such claimed data

Art Unit: 2194

structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory.

Similarly, computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. *See In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035.

Claims 9 and 10 recite a "device" comprising a series of means that can be reasonably interpreted as software. Accordingly, claims 9 and 10 appear to merely set forth functional descriptive material per se, which is nonstatutory.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims **1-10** are rejected under 35 U.S.C. 102(e) as being anticipated by **Lawson et al.**
(US 5721825 A).

As to claim 9:

Lawson teaches device in a communication network (*see Figs. 1-7*) comprising:
means for storing local objects; means for storing a local registry for containing a catalogue of objects local to the device; means for connecting the device to the network;
means for propagating a request for a list of objects formulated by a local object to the local registries of other devices; and means for collecting the responses of the registries of the other devices and the response of the local registry and for transmitting the

Art Unit: 2194

responses to the object having formulated the request (*see the Abstract and Figs.1-7 and the associated text*).

As to claim 10:

Lawson teaches means for determining the addresses of devices of the network comprising so-called distant registries (*see Figs.1-7 and the associated text*).

As to claim 1:

The rejection of claim 1 above is incorporated herein in full. Additionally Lawson teaches formulating, by a local object, a request for a list of objects, the request being transmitted to the single local registry of the device hosting the local object (*see Figs.1-7 and the associated text*).

As to claim 2:

Lawson teaches a local registry comprises for each object registered therein an identifier of this object in the network, this identifier being unique for the network, as well as attributes of the object (*see Figs.1-7 and the associated text*).

As to claim 3:

Lawson teaches the identifier comprises an identifier of the device in which the object is present, this device identifier being unique in the network, as well as of a local identifier

Art Unit: 2194

unique to this object at the level of the device object (*see Figs.1-7 and the associated text*).

As to claim 4:

Lawson teaches a type of request formulated by an object is a request comprising at least one selection criterion pertaining to an object attribute (*see Figs.1-7 and the associated text*).

As to claim 5:

Lawson teaches the function of an object is an attribute stored by a local registry in respect of the object (*see Figs.1-7 and the associated text*).

As to claim 6:

Lawson teaches determining the devices connected to the network which themselves comprise a registry (*see Figs.1-7 and the associated text*).

As to claim 7:

Lawson teaches the determination of the types of the devices present in the network, the type of a device indicating whether it hosts a registry or whether it does not host one (*see Figs.1-7 and the associated text*).

Art Unit: 2194

As to claim 8:

Lawson teaches selection criteria for at least two lists of objects, as well as at least one operator for processing the lists (*see Figs.1-7 and the associated text*).

Response to Arguments

5. Applicant's arguments filed on 09/08/2008 have been considered but are moot in view of the new ground(s) of rejection.

Contact Information

6. Any inquiry or a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: (571) 272-2100.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VAN H. NGUYEN whose telephone number is (571) 272-3765. The examiner can normally be reached on Monday-Thursday from 8:30AM-6:00PM. The examiner can also be reached on alternative Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MENG-AI AN can be reached at (571) 272-3756.

Art Unit: 2194

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VAN H NGUYEN/
Primary Examiner, Art Unit 2194